

THE NATIONAL ARCHIVES
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1934
OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 3 NUMBER 247

Washington, Wednesday, December 21, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Cotton 307]

PART 722—REGULATIONS PERTAINING TO COTTON MARKETING QUOTAS FOR THE 1939-1940 MARKETING YEAR

By virtue of the authority vested in the Secretary of Agriculture by Title III of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, approved February 16, 1938), as amended, I do make, prescribe, publish, and give public notice of the following regulations governing cotton marketing quotas for the 1939-1940 marketing year, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture under said act.¹

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¹ Unless otherwise indicated, all references in the text to sections relate to sections of these regulations. Unless otherwise indicated, all citations at the end of paragraphs are to sections of the Agricultural Adjustment Act of 1938, approved February 16, 1938 (Public Law No. 430, 75th Congress, 52 Stat. 31, as amended).

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Sec. 722.111 *Issuance of forms and instructions and definitions*—(a) *Issuance of forms and instructions.* The Administrator of the Agricultural Adjustment Administration shall cause to be prepared and issued with his approval such instructions (as parts of the general series referred to in Sec. 722.118) and such forms as may be required to carry out these regulations. Copies of such forms and necessary instructions shall be furnished free to persons needing them upon request made to the office of the appropriate county committee.

(b) *Definitions.* As used in these regulations and in all forms and documents in connection therewith, unless the context or subject matter otherwise requires, the following terms shall have the following meanings and the masculine shall include the feminine and neuter genders and the singular shall include the plural number:

(1) *Act.* The Agricultural Adjustment Act of 1938 and any amendments thereto.

(2) *Secretary of Agriculture.* The Secretary of Agriculture of the United States.

(3) *Administrator.* The Administrator of the Agricultural Adjustment Administration of the United States Department of Agriculture.

(4) *Regional Director.* The director of the division of the Agricultural Adjustment Administration in charge of the administration of Sections 7 to 17, in-

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Published by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. L. 500), under regulations prescribed by the Administrative Committee, with the approval of the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the **FEDERAL REGISTER** will be furnished by mail to subscribers, free of postage, for \$1 per month or \$10 per year; single copies 10 cents each; payable in advance. Remit by money order payable to Superintendent of Documents, Government Printing Office, Washington, D. C.

Correspondence concerning the publication of the **FEDERAL REGISTER** should be addressed to the Director, Division of the Federal Register, The National Archives, Washington, D. C.

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clusive, of the Soil Conservation and Domestic Allotment Act (49 Stat. 1143) in the region.

(5) *Southern Region.* The area included in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, South Carolina, and Texas.

(6) *East Central Region.* The area included in the States of Delaware, Kentucky, Maryland, North Carolina, Tennessee, Virginia, and West Virginia.

(7) *Western Region.* The area included in the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, and Wyoming.

(8) *North Central Region.* The area included in the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin.

(9) *State Committee.* The group of persons designated within any State to assist in the administration of Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act.

(10) *Committee.* A committee within a county or community utilized under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act. "County committee", "community committee", or "local committee" shall have corresponding meanings in the connection in which they are used.

(11) *Review Committee.* The review committee appointed by the Secretary of Agriculture as provided in Section 363 of the Act.

(12) *Person.* An individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State. The term "person" shall include two or more persons having a joint or common interest.

(13) *Owner or landlord.* A person who owns farm land and rents such land to another person or who operates such land.

(14) *Cash tenant or standing-rent tenant or fixed-rent tenant.* A person who rents land from another for a fixed amount of cash or a commodity to be paid as rent.

(15) *Share tenant.* A person other than a sharecropper who rents land from another person and pays as rent a share of the crops or the proceeds thereof.

(16) *Sharecropper.* A person who works a farm in whole or in part under the general supervision of the operator and is entitled to receive for his labor a share of a crop produced thereon or the proceeds thereof.

(17) *Operator.* A person who as a landlord or cash tenant or standing or fixed-rent tenant is operating a farm or who as a share tenant is operating a whole farm.

(18) *Producer or farmer.* A person who is entitled to a proportionate share of the cotton crop, or the proceeds thereof, produced on the farm in 1939, as owner, landlord, cash tenant, standing-rent tenant, fixed-rent tenant, share tenant, or sharecropper. The term "producer" or "farmer" also includes a wage hand (or cropper) who as a laborer on a farm instead of receiving daily or other cash wages for his labor receives either all the cotton produced by him or another on an agreed or specified acreage or all the cotton produced on an agreed or specified portion of the acreage cultivated by him or another.

(19) *Buyer.* A person who buys cotton from a producer.

(20) *Transferee.* A person who receives cotton from a producer by barter or exchange.

(21) *Ginner.* A person who gins cotton.

(22) *Treasurer of the County Committee.* The treasurer of the county agricultural conservation association or the treasurer of the county committee, as the case may be.

(23) *Farm.* All adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(i) Any other adjacent or nearby farm land operated by the same person (as part of the same unit with respect to the rotation of crops and with work-stock, farm machinery, and labor substantially separate from that for any other land), the inclusion of which is requested or agreed to, within the time and in the manner specified by the Agricultural Adjustment Administration, by the operator and all the owners who are entitled to share in the proceeds of the crops on any of the land to be included in the farm, and

(ii) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops;

Provided, That land not under the same ownership shall be included in the same farm only if the county committee determines that: (a) There is one crop rotation system on the entire area of land; (b) the yields and productivity of the different ownerships do not vary substantially; (c) the combination is not being made for the purpose of increasing acreage allotments or primarily for the purpose of effecting compliance; and (d) the several ownership tracts constitute a farming unit for the operator and will be regarded in the community as a farm in 1939. A farm shall be regarded as located in the county or administrative area, as the case may be, in which

the principal dwelling is situated, or if there is no dwelling thereon, it shall be regarded as located in the county or administrative area, as the case may be, in which the major portion of the farm is located.

(24) *Farm marketing quota.* A cotton marketing quota established for a farm under Section 346 (a) of the Act.

(25) *Producer marketing quota.* A producer's share of a farm marketing quota.

(26) *Farm acreage allotment.* A cotton acreage allotment established for a farm under section 722.115 or 722.116 of these regulations.

(27) *Normal yield per acre of lint cotton.* The number of pounds of lint cotton established as the normal yield for the farm in accordance with section 722.117.

(28) *Actual production of any number of acres of cotton on a farm.* The actual average yield of lint cotton for the farm for 1939 times such number of acres.

(29) *Normal production as applied to any number of acres of cotton.* The normal yield per acre of lint cotton for the farm times such number of acres.

(30) *Cotton.* Any cotton other than long staple cotton.

(31) *Long staple cotton.* Cotton the staple of which is 1½ inches or more in length.

(32) *Lint cotton.* The fiber taken from seed cotton by ginning.

(33) *Seed cotton.* The harvested fruit of the cotton plant before it is ginned.

(34) *Ginning.* Separating lint cotton from the seed.

(35) *Market.* To dispose of by sale, barter, or exchange.

(i) The term "sale" means any transfer of title to cotton by a producer to another by any means other than barter or exchange.

(ii) The terms "barter" and "exchange" mean transfer of title to cotton by a producer to another in return for cotton or other commodities, services, or property in cases where the value of the cotton or such other commodities, services, or property is not considered in terms of money, or the transfer of title to cotton by a producer to another in payment of a fixed rental or other charge for land.

(iii) "Marketed," "marketing," and "for market," shall have corresponding meanings to the term "market" in the connection in which they are used.

(36) *Marketing year.* The period beginning on August 1, 1939, and ending with July 31, 1940, both dates inclusive.

(37) *Penalty.* The penalty provided in Section 348 of the Act.

(38) *State and county code number.* The applicable number assigned by the Agricultural Adjustment Administration to each county for the purpose of identification.

(39) *Serial number of the farm or farm serial number.* The serial number assigned to a farm.

(40) *Gin bale number or mark.* The number on the bale tag or any mark made or used by the ginner to identify a bale of cotton. (Sec. 375, 52 Stat. 66)

ALLOTMENTS AND YIELDS

SEC. 722.112 *National baleage allotment.* The national allotment of cotton for the calendar year beginning January 1, 1939, is 10,000,000 standard bales of 500 pounds gross weight, increased by that number of standard bales of 500 pounds gross weight equal to the production in 1939 of that number of acres required to be allotted for 1939 as set forth in Sec. 722.113 (c), relating to minimum State acreage allotments, and in Sec. 722.114 (b), relating to minimum county acreage allotments. The production in 1939 of the acreage allotment referred to in Sec. 722.113 (c), relating to a special fund of acreage allotments consisting of 4 percent of the State acreage allotment, and in Sec. 722.113 (f), relating to minimum farm acreage allotments, shall be in addition to such national allotment. (Sec. 343 (a), (b), and (c), 52 Stat. 56)

SEC. 722.113 *State baleage allotments and State acreage allotments—(a) State baleage allotment.* Ten million standard bales of the national baleage allotment of cotton for the calendar year 1939 shall be apportioned among the several States on the basis of the average of the normal production of cotton in each State for the five years 1933 to 1937. The normal production of a State for each such year shall be (1) the quantity of cotton produced therein in such year plus (2) the normal production of the acres diverted from the production of cotton in all counties in the State under the agricultural adjustment or conservation program in such year. The normal production of the acres diverted from the production of cotton in any county in any year shall be the average yield per acre of the acres planted to cotton in such county in such year times the number of acres so diverted in such county in such year. (Sec. 344 (a))

(b) *State acreage allotment.* A State acreage allotment shall be established for each State to which an allotment is made under paragraph (a). The State acreage allotment shall be that number of acres equal to the result obtained by dividing the number of standard bales allotted to the State under paragraph (a) by the average yield per acre for the State expressed in standard bales. The average yield per acre for any State shall be determined on the basis of the average of the normal production for the State for the five years 1933 to 1937 and the average, for the same period, of the acres diverted from the production of cotton in the State under the agricultural adjustment or conservation programs and the acres planted to cotton. (Sec. 344 (b))

(c) *Minimum State acreage allotment.* Notwithstanding the foregoing provisions of this section, the State acreage allot-

ment for any State which is less than 5,000 acres shall be increased to 5,000 acres if at least 3,500 bales of cotton were produced in such State in any of the five years 1934 to 1938. (Sec. 344 (e) (2))

(d) *State acreage reserve for new farms.* An acreage not greater than two percent of the State acreage allotment shall be made available for apportionment to farms in the State on which cotton was not planted in any one of the three years 1936, 1937, and 1938. (Sec. 344 (c) (2))

(e) *Additional fund of four percent of State acreage allotment.* In addition to the State acreage allotment, a special fund of acreage allotments equal to 4 percent of the State acreage allotment shall be established for each State for apportionment as set forth in Sec. 722.115 (b), (e), and (f). (Sec. 344 (g))

(f) *Increases to provide for minimum farm acreage allotments.* There shall be available in each State for allotment to farms that number of acres equal to the total amount by which farm acreage allotments in the State are increased as set forth in Sec. 722.115 (h), relating to certain minimum and maximum farm acreage allotments. This increase shall be in addition to the State acreage allotment and the special fund of acreage allotments equal to 4 percent of the State acreage allotment. (Sec. 344 (h)) (Sec. 344, 52 Stat. 57, 203, 586)

SEC. 722.114 *County acreage allotments—(a) Regular county acreage allotments.* The State acreage allotment (less that part set aside under Sec. 722.113 (d) for apportionment to new farms) shall be apportioned among the counties in the State on the basis of the sum of (1) the acreage therein planted to cotton during the five years 1933 to 1937 and (2) in the applicable years, the acreage therein diverted from the production of cotton under agricultural adjustment and conservation programs, with adjustments for abnormal weather conditions and trends in acreage during such five-year period. The acreage allotment for each county to which an allotment is so apportioned shall be increased by the number of acres, if any, required to provide an acreage allotment for each such county of not less than 60 percent of the sum of (1) the acreage therein planted to cotton in 1937, and (2) the acreage therein diverted from the production of cotton in 1937 under the agricultural conservation program. (Sec. 344 (c) (1), Sec. 344 (e) (1))

(b) *Administrative areas.* If in any county there are one or more areas which, because of difference in types, kinds, and productivity of the soil or other conditions, should be treated separately in order to prevent discrimination, each such area shall, in accordance with applicable instructions, be designated by the county committee and the county acreage allotment shall be apportioned among such areas (1) on the basis of the acreage in each such area

planted to cotton in 1937 plus the acreage therein diverted from the production of cotton in 1937 under the agricultural conservation program, or (2) if conditions affecting the acreage planted to cotton were not reasonably uniform throughout the county in 1937, on the basis of the cotton base acreage in each such area which was or could have been established in 1937 under the agricultural conservation program. [Sec. 344 (f)] (Sec. 344, 52 Stat. 57, 203, 586)

SEC. 722.115 *Apportionment of acreage allotments among established farms*—(a) *Acreage available for allotment.* The county committee, with the assistance of other local committees established in the county, shall apportion, in the manner set forth in this section, acreage allotments among all farms in the county on which cotton was planted in any one of the three years 1936 to 1938. The acreage allotments to be apportioned among such farms shall consist of (1) the regular county acreage allotment, consisting of an apportionment of the State acreage allotment made to the county, with such increase in the county acreage allotment as is necessary to provide for the county a minimum acreage allotment of not less than 60 percent of the planted plus diverted cotton acreage in the county in 1937, and (2) a distributive part, applicable to the county, of the special fund of acreage allotments consisting of that amount which is equal to 4 percent of the State acreage allotment. This distributive part, hereinafter referred to as the "special fund", is to be applied, insofar as the amount thereof will permit, and in the following order: (a) in supplying any deficiency in the regular county acreage allotment for the making of initial acreage allotments not exceeding five acres for each such farm; (b) in supplementing any acreage allotment made to any farm out of the regular county acreage allotment which, in consequence of the making of such initial acreage allotments, is inadequate and unrepresentative, and (c) in supplementing any acreage allotment made to any farm under this section which the county committee determines, in accordance with applicable instructions, is inadequate and unrepresentative. The committee shall not establish any farm acreage allotment which is not covered by the allotments mentioned above, except that after but not before the apportionment among farms of all the allotments mentioned above in this paragraph an additional farm acreage allotment shall be made, as set forth in paragraph (h), to any farm in respect to which the acreage allotment otherwise made is less than the minimum acreage allotment set forth in paragraph (h). The term "planted plus diverted cotton acreage", as used in this section, shall be taken to mean the sum of the acreage planted in cotton and the acreage diverted from cotton production under agricultural adjustment or conservation programs. [Sec. 344 (d), (e), (f), (g), (h)]

(b) *Initial farm acreage allotments.* The regular county acreage allotment shall be first apportioned among farms on which cotton was planted in any one of the three years 1936 to 1938, inclusive, and in making such apportionment there shall be first established for each such farm an initial acreage allotment equal to the highest planted plus diverted cotton acreage on the farm in any one of the three years 1936 to 1938, provided that no initial allotment shall exceed five acres for any such farm. These allotments shall be known as initial allotments and are referred to accordingly in this section. Any deficiency in the amount of the regular county acreage allotment for the making of such initial allotments shall be supplied by the use of the special fund of acreage allotments, insofar as said fund will permit. [Sec. 344 (d) (1), Sec. 344 (g) (1)]

(c) *Reserve for small farms.* In the event that the regular county acreage allotment is more than sufficient to make the initial allotments, there shall be set aside for increase of allotments to small farms, as set forth in paragraph (g), an amount of not more than 3 percent of that amount of the regular county acreage allotment which remains after making the initial allotments. [Sec. 344 (d) (2)]

(d) *Apportionment on the basis of tilled land.* The remainder of the regular county acreage allotment shall be apportioned among all farms on which the highest planted plus diverted cotton acreage in any one of the three years 1936 to 1938 was more than five acres. The acreage thus to be apportioned to each such farm shall, together with the initial allotment made to the farm, be a percentage (which shall be the same percentage for all farms in the county or administrative area within the county) of the acreage on the farm in 1938 which was tilled or was in regular rotation, excluding therefrom the acreage devoted to the production of sugarcane for sugar, wheat, tobacco, or rice for market, or wheat or rice for feeding to livestock for market. [Sec. 344 (d) (3)]

(e) *Increases as a result of making initial farm acreage allotments.* If, as a result of the making of initial allotments, the farm acreage allotments for farms made in accordance with paragraph (d) are substantially smaller than the farm acreage allotments which would have been made without regard to any provision for the making of initial allotments, the farm acreage allotments to such farms shall be increased to the acreage which would have resulted in the absence of any provision for the making of initial allotments, insofar as any portion of the special fund of acreage allotments not used in the making of initial allotments will permit. [Sec. 344 (d) (2)]

(f) *Increases in view of past production.* After allotments have been made from the special fund as provided in paragraphs (b) and (e), one-half of the

remainder, if any, of the special fund shall be apportioned to farms for which the acreage allotment otherwise determined is less than 50 percent of the planted plus diverted cotton acreage on the farm in 1937, and the other one-half of the remainder, if any, of the special fund shall be available for increasing the allotments for any farms which are determined, in accordance with applicable instructions, to be inadequate and not representative in view of past production of the farm: Provided, That the cotton acreage allotment for any farm shall not be increased under this paragraph (f) above 40 percent of the acreage on such farm in 1938 which was tilled or was in regular rotation. [Sec. 344 (g) (3)]

(g) *Distribution of reserve for small farms.* Any farm acreage allotment made as aforesaid of more than five acres, but not exceeding 15 acres, may be increased from the reserve of not more than 3 percent of the county acreage allotment mentioned in paragraph (c). In making such increase due consideration shall be given to, and such allotments shall be made on the basis of, the land, labor, and equipment available for the production of cotton, crop rotation practices, and the soil and other facilities affecting the production of cotton. [Sec. 344 (d) (2)]

(h) *Certain minimum and maximum farm acreage allotments.* Notwithstanding any other provision of this section, (1) the farm acreage allotment made to any farm shall not exceed the highest planted plus diverted cotton acreage in any one of the three years, 1936 to 1938, and (2) any farm acreage allotment which after but not before the apportionment of all acreage allotments, as provided in the foregoing paragraphs of this section, is less than 50 percent of the planted plus diverted cotton acreage on the farm in 1937, shall be increased to such amount, provided that such increase shall not be so made as to raise the farm acreage allotment of the farm above 40 percent of the acreage on the farm in 1938 which was tilled or was in regular rotation. The acreage allotments required to effect this minimum provision shall be in addition to all acreage allotments represented by the regular county acreage allotment and by the special fund of acreage allotments. [Sec. 344 (d) (3), Sec. 344 (h)] (Sec. 344, 52 Stat. 57, 203, 586)

SEC. 722.116 *Apportionment of acreage allotments among new farms.* The county committee, with the assistance of other local committees, shall, in accordance with applicable instructions, apportion among farms on which cotton was not planted in any one of the three years 1936 to 1938 and on which cotton will be planted in 1939 the distributive part, applicable to the county, of acreage allotments which constitute a reserve of not more than 2 percent of the State acreage allotment. The basis of the apportionment shall be the land, labor,

and equipment available on the farm for the production of cotton, crop rotation practices, and the soil and other physical facilities affecting the production of cotton thereon. The acreage on the farm which will be tilled in 1939 or was tilled in 1938 shall, as a reflection of said factors, be regarded as the basic index of the farm's capacity for cotton production. (Sec. 344 (c) (2), 52 Stat. 57)

Sec. 722.117 *Normal yields*—(a) *Farms for which normal yields will be established.* The county committee, with the assistance of the other local committees established in the county, shall determine the normal yield per acre of lint cotton for each farm for which a farm acreage allotment is established.

(b) *Yields based on reliable records.* Where reliable records of the actual average yield of lint cotton per acre for all of the five years 1934 to 1938 are presented by the farmer or are available to the committee, the normal yield per acre of lint cotton for the farm shall be the average of such yields, adjusted, in accordance with applicable instructions, for abnormal weather conditions.

(c) *Appraised yields.* If for any year of the five-year period 1934 to 1938 (1) records of the actual average yield are not available, or (2) there was no actual yield because cotton was not planted in such year, the normal yield per acre of lint cotton for the farm shall be appraised by the county committee, taking into consideration the normal yield for the county, the yield in the years for which data are available, and the rainfall, temperature, and other weather conditions during the years for which data are available as compared with those for which data are not available, provided the appraised yield so obtained shall be adjusted in accordance with paragraph (d).

(d) *Adjustments in appraised yields.* The yields determined under paragraph (c) shall be adjusted so that the average of the normal yields per acre of lint cotton determined for all farms in the county or local administrative area therein (weighted by the cotton acreage allotments established for such farms) shall conform to but not exceed the county or administrative area normal yield per acre of lint cotton established for 1939 by the Secretary of Agriculture. (Sec. 301 (b) (13) (B) and (E), 52 Stat. 38)

Sec. 722.118 *Applicability of detailed instructions.* The provisions of Sec. 722.112 through Sec. 722.117 shall be carried out in detail in accordance with the provisions of Part I, "Determining 1939 Farm Cotton Acreage Allotments and Yields", of the following instructions applicable to the regions indicated below:

Southern Region.—Cotton 308-SR, "Instructions Pertaining to Cotton Marketing Quotas for 1939".

East Central Region.—Cotton 308-ECR, "Instructions Pertaining to Cotton Marketing Quotas for 1939".

Western Region.—Cotton 308-WR, "Instructions Pertaining to Cotton Marketing Quotas for 1939".

North Central Region.—Cotton 308-NCR, "Instructions Pertaining to Cotton Marketing Quotas for 1939". (Sec. 375, 52 Stat. 66)

Done at Washington, D. C., this 20th day of December, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3840; Filed, December 20, 1938; 12:21 p. m.]

TITLE 8—ALIENS AND CITIZENSHIP IMMIGRATION AND NATURALIZATION SERVICE

[8d Supp. to General Order No. C-1¹]

PORT OF ENTRY FOR ALIENS AT DEL
BONITA, MONTANA

DECEMBER 17, 1938.

Pursuant to the authority contained in Section 23 of the Immigration Act of 1917 (Act of February 5, 1917, 39 Stat. 892; 8 U. S. C. 102), Del Bonita, Montana, is hereby designated as a port for the entry of aliens into the United States.

Sec. 1.31, Title 8, Code of Federal Regulations (Rule 3, Subdivision A, Paragraph 1 of the Immigration Rules and Regulations of January 1, 1930, Edition of December 31, 1936), is amended by inserting Del Bonita, Montana, between Babb, Montana, and Gateway, Montana, in the list of ports of entry for aliens in District No. 15.

[SEAL] JAMES L. HOUGHTLING,
Commissioner.

Approved:

FRANCES PERKINS,
Secretary.

[F. R. Doc. 38-3838; Filed, December 20, 1938; 12:54 p. m.]

TITLE 10—ARMY WAR DEPARTMENT

CHAPTER VII—PERSONNEL

PART 73—APPOINTMENT OF COMMISSIONED OFFICERS AND CHAPLAINS

Appointment in Medical Corps, Regular Army

10 CFR 73.05 (e) is rescinded. (Sec. 24, 41 Stat. 774; sec. 4, 35 Stat. 67, 10 U. S. C. 92, 93.) [Sec. III, Cir. No. 77, W. D., Dec. 15, 1938.]

[SEAL]

E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 38-3826; Filed, December 20, 1938; 9:53 a. m.]

* 3 F. R. 1657 DL

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3519]

IN THE MATTER OF COLUMBIA ALKALI CORPORATION ET AL.

Sec. 3.27 (d) *Combining or conspiring—To enhance, maintain or unify prices.* By agreement, etc., and in connection with the sale of calcium chloride in any form in interstate commerce or in the District of Columbia, fixing or maintaining uniform prices in the sale thereof in the United States, on the part of respondent corporations, their successors and assigns, etc., prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Columbia Alkali Corporation et al., Docket 3519, December 13, 1938]

Sec. 3.27 (d) *Combining or conspiring—To enhance, maintain or unify prices.* By agreement, etc., and in connection with the sale of calcium chloride in any form in interstate commerce or in the District of Columbia, (a) maintaining a uniform zoning system for the United States, (b) suggesting retail prices to their individual dealers or distributors, (c) exchanging information with reference to the prices each charges, (d) changing simultaneously their sales prices, and (e) offering identical bids for carload or less than carload lots to prospective purchasers; when any or all of said acts are done for the purpose of effectuating any agreement, combination or conspiracy to fix or maintain uniform prices in the United States for the sale of calcium chloride in any form; on the part of respondent corporations, their successors and assigns, etc., prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Columbia Alkali Corporation et al., Docket 3519, December 13, 1938]

Sec. 3.27 (d) *Combining or conspiring—To enhance, maintain or unify prices.* By agreement, etc., and in connection with the sale of calcium chloride in any form in interstate commerce or in the District of Columbia, eliminating cash discounts for prompt payment by purchasers thereof, on the part of respondent corporations, their successors and assigns, etc., prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Columbia Alkali Corporation et al., Docket 3519, December 13, 1938]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 13th day of December, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF COLUMBIA ALKALI CORPORATION, DOW CHEMICAL COMPANY, MICHIGAN ALKALI COMPANY, SOLVAY SALES CORPORATION, SOLVAY PROCESS COMPANY, AND CALCIUM CHLORIDE ASSOCIATION

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answers of respondents, in which answers respondents, Columbia Alkali Corporation, Dow Chemical Company (The Dow Chemical Company), Michigan Alkali Company, and Solvay Sales Corporation, admit, with respect to the period extending from November 1937 through January 1938, all the material allegations of fact set forth in said complaint, and state that they waive all intervening procedure and further hearing as to said facts, and in which answer respondents, Solvay Process Company (The Solvay Process Company), and Calcium Chloride Association, each deny that they were parties to any of the unlawful acts and practices alleged in the complaint, and the Commission having made its findings as to the facts and conclusion that said respondents, Columbia Alkali Corporation, Dow Chemical Company (The Dow Chemical Company), Michigan Alkali Company, and Solvay Sales Corporation, have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, Columbia Alkali Corporation, Dow Chemical Company (The Dow Chemical Company), Michigan Alkali Company, and Solvay Sales Corporation, and their respective successors and assigns, officers, representatives, agents and employees, directly or indirectly, or through or by means of any association, its officers, representatives and agents, or by any other means, in connection with the offering for sale, sale and distribution of calcium chloride in any form in interstate commerce or in the District of Columbia, do forthwith cease and desist from doing by agreement, combination, or conspiracy between or among any two or more of said respondents, or between or among any one of said respondents and any other competing manufacturer or distributor of calcium chloride in any form, the following acts and things:

(1) Fixing or maintaining uniform prices in the sale of calcium chloride in any form in the United States;

(2) (a) Maintaining a uniform zoning system for the United States, (b) suggesting retail prices to their individual dealers or distributors, (c) exchanging information with reference to the prices each charges for calcium chloride, (d) changing simultaneously their sales prices for calcium chloride in any form, (e) offering identical bids for carload or less than carload lots of calcium chloride in any form to prospective purchasers when any or all

of said acts are done for the purpose of effectuating any agreement, combination or conspiracy to fix or maintain uniform prices in the United States for the sale of calcium chloride in any form;

(3) Eliminating cash discounts for prompt payment by purchasers of calcium chloride;

It is further ordered, That the case growing out of the complaint herein be, and the same hereby is, closed as to the respondents, Solvay Process Company (The Solvay Process Company) and Calcium Chloride Association, but without prejudice to the right of the Commission, should future facts so warrant, to reopen the same and resume prosecution thereof in accordance with its regular procedure;

It is still further ordered, That the respondents, Columbia Alkali Corporation, Dow Chemical Company (The Dow Chemical Company), Michigan Alkali Company, and Solvay Sales Corporation, shall each, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[P. R. Doc. 38-3823; Filed, December 20, 1938;
9:45 a. m.]

[Docket No. 3583]

IN THE MATTER OF JULEP BOTTLING COMPANY, INC.

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., soda water so arranged, etc., that sales thereof to the general public are to be, or may be, made by means of a game of chance, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Julep Bottling Company, Inc., Docket 3583, December 7, 1938]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.* Furnishing to dealers bottles of soda water capped with crowns, which caps or crowns have printed or impressed numbers therein, and are to be, or may be, used in selling, etc., said products to the purchasing public by means of a game of chance, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Julep Bottling Company, Inc., Docket 3583, December 7, 1938]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.* Furnishing to, etc., dealers bottles of soda water capped with crowns, which caps or crowns have printed or impressed numbers therein, or any other products, together with a device to be, or which may be used in selling, etc., said products to the purchasing public by means of a game of chance, etc., as specified, pro-

hibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Julep Bottling Company, Inc., Docket 3583, December 7, 1938]

**United States of America—Before
Federal Trade Commission**

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of December, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of the complaint to be true, and respondent further states that it waives hearing on the charges set forth in said complaint, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Julep Bottling Company, Inc., a corporation, its officers, representatives, agents, and employees, in connection with the offering for sale, sale and distribution of soda water in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Selling and distributing said soda water so arranged and assembled that sales of such soda water to the general public are to be made or may be made by means of a game of chance, gift enterprise, or lottery scheme;

(2) Furnishing to dealers bottles of soda water capped with crowns, which caps or crowns have printed or impressed numbers therein, which said bottle caps or crowns are to be used or may be used in selling or distributing said products to the purchasing public by means of a game of chance, gift enterprise, or lottery scheme;

(3) Furnishing to or placing in the hands of dealers said products or any other products together with a device which said device is to be used or may be used in selling or distributing said products to the purchasing public by means of a game of chance, gift enterprise, or lottery scheme.

It is further ordered, That the respondent shall within sixty (60) days after service upon it of this order file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[P. R. Doc. 38-3822; Filed, December 20, 1938;
9:45 a. m.]

TITLE 30—MINERAL RESOURCES NATIONAL BITUMINOUS COAL COMMISSION

[Order No. 254]

DIRECTING DISTRICT BOARDS FOR DISTRICTS Nos. 14, 16, 17, 18, 19, 20, 22 AND 23 TO COORDINATE MINIMUM PRICES AND RULES AND REGULATIONS INCIDENTAL TO SALE AND DISTRIBUTION OF COAL APPROVED BY THE NATIONAL BITUMINOUS COAL COMMISSION TO SERVE AS THE BASIS FOR COORDINATION BY SAID DISTRICT BOARDS

DIRECTING SAID DISTRICT BOARDS TO SUBMIT SUCH COORDINATED PRICES AND RULES AND REGULATIONS TOGETHER WITH DATA UPON WHICH THEY ARE PREDICATED; AND ESTABLISHING AND PROMULGATING RULES AND REGULATIONS UNDER WHICH SUCH COORDINATION SHALL BE ACCOMPLISHED

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937,¹ the National Bituminous Coal Commission hereby orders and directs:

1. That Order No. 253² heretofore issued by the Commission on the 9th day of December, 1938, be and the same is hereby supplemented to include the following provisions:

(a) That the District Boards for Districts Nos. 16, 17, 18, 19, 20, 22 and 23, now engaged in coordination proceedings pursuant to the provisions of Order No. 253, shall forthwith proceed to coordinate the minimum prices and rules and regulations incidental to the sale and distribution of coal, approved by the Commission to serve as the basis for coordination for the respective districts, with the minimum prices and rules and regulations incidental to the sale and distribution of coal approved by the Commission to serve as a basis for coordination for District No. 14, and the District Board for District No. 14 shall forthwith proceed to coordinate with the said Districts Nos. 16, 17, 18, 19, 20, 22 and 23 pursuant to and in the same manner as provided by the provisions of said Order No. 253 prescribed for said Districts Nos. 16, 17, 18, 19, 20, 22 and 23.

(b) Said District Board No. 14 shall forthwith, by appropriate resolution, designate and appoint one or more persons with power of delegation and substitution to represent said District Board in the work of coordination and fully empower such person or persons to act for said District Board in a meeting with other such representatives from the other District Boards named in this Order, in the Offices of the Commission, Washington, D. C., commencing at 10:00 o'clock, A. M., on the 19th day of December, 1938.

(c) The provisions of Order No. 253, and the rules and regulations therein established for the coordination of minimum prices and for the coordination of the rules and regulations incidental to the sale and distribution of coal, be and the same are hereby incorporated herein, to the end that all of the provisions of said Order No. 253 shall be and the same are hereby declared to be applicable to District Board No. 14.

2. The Secretary of the Commission is hereby directed to cause a copy of this Order to be published forthwith in the FEDERAL REGISTER, and shall cause copies hereof to be mailed to each code member within Districts Nos. 16, 17, 18, 19, 20, 22 and 23, to the Consumers' Counsel and to the Secretary of each District Board, and shall cause a copy hereof, together with a copy of said Order No. 253 to be mailed to each code member within District No. 14, and shall cause copies hereof to be made available for inspection by interested parties in each of the Statistical Bureaus of the Commission.

By order of the Commission.

Dated this 17th day of December, 1938.

[SEAL] F. WITCHER McCULLOUGH,
Secretary.

[F. R. Doc. 38-3834; Filed, December 20, 1938;
12:15 p. m.]

TITLE 32—NATIONAL DEFENSE NATIONAL GUARD

COMMISSIONED OFFICERS

The following regulations supersede 32 C. F. R. 1.01 to 1.06, inclusive:*

Sec. 1.01 *Appointment*—(a) *General*. Section 8, article I, of the Constitution of the United States reserves to the States the appointment of officers of the militia. Therefore, as soon as a person is appointed an officer of the National Guard and has taken the prescribed oath of office, he has a State status under which he can function. These appointees, however, will not be considered officers of the National Guard in the sense of the National Defense Act until they have been Federally recognized. (See 1.02 for Federal recognition.)

(b) *Appointments for new units*. As soon as the Chief of the National Guard Bureau authorizes the formation of a headquarters or a unit, the State authorities should select and appoint the officers prescribed for that headquarters or unit.

(c) *Appointments to State staff*—(1) *The adjutant general*—(i) *Of a State*. The appointment of a person to the office of adjutant general of a State and his tenure of office are governed by the laws of the State.

(ii) *Of a Territory*. The adjutant general of a Territory is appointed by the President upon the recommendation of the Governor, with such rank and quali-

fications as the President may prescribe. However, no person shall be appointed adjutant general of a Territory, unless he be a citizen of that Territory.

(iii) *Of the District of Columbia*. The adjutant general of the District of Columbia is appointed by the President upon recommendation of the commanding general of the National Guard of the District of Columbia, with such rank and qualifications as the President may prescribe.

(2) *The United States property and disbursing officer*. The Governor of each State and Territory, and the commanding general of the National Guard of the District of Columbia shall appoint, designate, or detail, subject to the approval of the Secretary of War, the adjutant general or an officer of the National Guard of the State, Territory, or District of Columbia, who shall be regarded as property and disbursing officer of the United States. Section 67, *National Defense Act*. (See also 1.02 (d) (2) (viii).)

(3) *Other State staff officers*. See 1.02 (d) (2) (viii).

(d) *Appointments in grades lower than prescribed*. Appointments of officers in grades lower than those prescribed by the applicable tables of organization are authorized, provided that for each such appointment in a lower grade a vacancy is maintained in a higher grade in the same unit.

(e) *Oath of office*. An appointment is not complete until the officer has executed the prescribed oath of office (NGB Form No. 337). This oath will be forwarded through channels to the Chief of the National Guard Bureau with the officer's request for Federal recognition.* [NGR 20, July 8, 1938]

Sec. 1.02 *Federal Recognition*—(a) *Definition*. Federal recognition is the action of the War Department in acknowledging and recording that officers of the National Guard have met the qualifications and requirements prescribed by the National Defense Act and regulations, and are thereby entitled to receive Federal pay and allowances.

(b) *Effective date of recognition*. Recognition is not complete until granted by the War Department. It is effective from the date on which the requirements for recognition were met.

(c) *Persons eligible*. Persons commissioned as officers of the National Guard shall not be recognized as such under any of the provisions of these regulations unless they shall have been selected from the following classes, and shall have taken and subscribed to the oath of office prescribed in section 73 of the National Defense Act:

(1) Officers or enlisted men of the National Guard.

(2) Officers, active or retired, of the Army, Navy, or Marine Corps.

* Sections 1.01 to 1.06, inclusive, are issued under the authority contained in sec. 58, 39 Stat. 197; sec. 1, 43 Stat. 1076; sec. 5, 48 Stat. 155; 32 U. S. C. 4.

¹ 50 Stat. 72.

² 3 F. R. 2998 DI.

(3) Reserve officers, and former officers of the Army, Navy, or Marine Corps and enlisted men and former enlisted men of the Army, Navy, or Marine Corps who have received an honorable discharge therefrom.

(4) Graduates of the United States Military and Naval Academies.

(5) Graduates of schools, colleges, universities, and officers' training camps, when they have received military instruction under the supervision of an officer of the Regular Army who certified their fitness for appointment as commissioned officers.

(6) For the technical branches or staff corps and departments, such civilians as may be specially qualified for duty therein.

NOTE.—A civilian officer or employee of the United States or the District of Columbia who is appointed an officer of the National Guard will not be Federally recognized without the consent of the head of the department or service in which he is employed.

(d) *Requirements for recognition.* The Chief of the National Guard Bureau will not grant Federal recognition to an officer until he has evidence that the following requirements have been met:

(1) *Residence.* The candidate must live in the vicinity of the unit to which he is to be assigned.

(2) *Assignment.*—(i) *To a company.* The company must be recognized.

(ii) *To headquarters of division special troops.* Over 50 percent of the units comprising the special troops must be recognized.

(iii) *To a battalion headquarters.* All the lettered or numbered companies of the battalion must be recognized.

(iv) *To a regimental headquarters—Lieutenant colonel and one staff officer.* All the companies of one battalion must be recognized and at least two other companies of the regiment.

The regimental commander and regimental staff. At least sixty-five percent of the companies of the regiment must be recognized.

(v) *To a brigade headquarters.* When the regiments of the brigade have been recognized.

(vi) *To a division headquarters.* The requirement set forth in (v) above must be fulfilled by two infantry brigades of the division; in addition, at least one-half of the companies that have been authorized for the division by the National Guard Bureau but which do not belong to these two brigades must be recognized.

(vii) *To split units.* The provisions of this paragraph from (i) to (vii) inclusive, apply with equal force to all split units.

(viii) *To State staff—Adjutant general.* If the person appointed adjutant general is a recognized officer he may retain that status or he may vacate his former commission and apply for recognition in the Adjutant General's Department. No professional examination is required but all other qualifications and requirements prescribed by Federal law and these regulations must be met before recognition will be granted. When recognized, a State adjutant general comes under the same regulations that apply to other recognized officers. (See the following table for authorized grades of State adjutants general for recognition.)

Rank and grade ¹	0 to 1,000	1,000 to 2,000	2,000 to 4,000	4,000 to 6,000	6,000 to 8,000	8,000 to 12,000	12,000 to 18,000	Over 18,000
Not above brigadier general.....			1	1	1	1	1	1
Not above colonel.....		1						
Not above lieutenant colonel.....	1		2	6	6	6	3	5
Not above major.....	4	4	4	3	3	6	5	5
Not above captain.....	3	3	2	3	6	7	10	15
Total commissioned.....	8	8	9	13	16	20	25	32

¹ A United States property and disbursing officer is included in the total number of commissioned officers provided for each strength classification in this table.

² The State adjutant general only.

United States property and disbursing officer. Any officer (other than the State adjutant general or an officer of the Finance Department or the Quartermaster Corps) who is appointed United States property and disbursing officer shall vacate his former commission and receive a new commission in the Finance Department or the Quartermaster Corps. If otherwise qualified, the United States property and disbursing officer may be recognized in the Finance Department or the Quartermaster Corps in any grade authorized in the foregoing table except the grade reserved for the adjutant general. Any officer (other than the State adjutant general or an

officer of the Finance Department or the Quartermaster Corps) who was appointed United States property and disbursing officer prior to the publication of this regulation may request a transfer in grade to the Finance Department or the Quartermaster Corps. In the event the incumbent does not elect to request such transfer, he may continue in office in his existing grade and arm or service, until promotion. Upon promotion, he will be recognized only in the Finance Department or the Quartermaster Corps.

Other State staff officers. A person appointed as an officer of the National Guard and assigned to the State staff may, if otherwise qualified, be recognized

provided he is commissioned and qualified in a staff corps or department appropriate to the staff position to which he is assigned, and further provided that the total number of officers so recognized in any State does not exceed the total authorized in the foregoing table. (For staff corps and departments see sec. 2, National Defense Act.)

(3) *Age.* No candidate will be examined for recognition who is less than 21 or more than 62 years old. No candidate for original commission as second lieutenant shall be more than 32; as first lieutenant, more than 36; as captain, more than 40; as major, more than 45; as lieutenant colonel, more than 50; as colonel, more than 62.

(4) *Examination.* The candidate must pass such physical, moral, and professional tests as the President may prescribe. (See 1.03.)

(e) *Termination of recognition.* Recognition of a National Guard officer terminates—

(1) When he has reached the age of 64 years.

(2) When his commission is vacated.

(3) When he is convicted of a felony.

(4) When he is transferred from a position in which he is recognized to a position for which there is no provision for recognition.

(5) When recognition is withdrawn from the organization to which the officer belongs, unless he is transferred to an existing vacancy in a recognized unit or to the inactive National Guard.

(f) *Withdrawal of recognition.* Recognition of a National Guard officer will be withdrawn—

(1) When he has been absent without leave for 3 months.

(2) When the annual physical examination or the findings of a medical board appointed under the provisions of 1.05 (b) (3) herein show that he is physically incapacitated for further service.

(3) When he is a member of the headquarters of a battalion or larger unit and that unit becomes so depleted that it no longer conforms to the prescribed recognition requirements. In such cases recognition of the commanding officer and his staff will be withdrawn 6 months after the date on which the unit became incomplete, unless the condition is corrected prior to the expiration of that period.

(4) When the time limit of a waiver granted under 1.04 (a) (3) (4) or (5) expires and the officer has not taken the prescribed examination or has failed to pass it.

(5) When an inspection conducted under the provisions of section 93, National Defense Act, shows that the individual is lacking in the required qualifications. In such cases the War Department may summarily withdraw Federal recognition.

(6) When an efficiency board appointed under the provisions of section

76, National Defense Act, finds against him and those findings are approved by the Chief of the National Guard Bureau." [NGR 20, July 8, 1938]

Sec. 1.03 Examination—(a) General—
(1) *Scope.* Every candidate for appointment or promotion will be examined to determine whether or not he is physically, morally, and professionally qualified. To this end the board will examine into the following matters in the order named (for waivers see 1.04):

- (i) Physical qualifications.
- (ii) Moral character.
- (iii) General qualifications.
- (iv) Professional qualifications:

Military knowledge qualifications.
Ability qualifications.

(2) *Marks.* The board's findings under all matters listed in (1) above, except "Military knowledge qualifications," will be reported on NGB Form No. 89, as "satisfactory" or "unsatisfactory." Each of the prescribed written examinations conducted under "Military knowledge qualifications" will be graded on a percentage basis and the grades will be shown on the list of subjects set forth in the record of proceedings. A grade of less than 65 percent in any subject will be considered unsatisfactory.

(b) *Physical examination.* In determining the physical qualifications of a candidate, the board will not be limited to an examination of the records submitted, but may, at its discretion, require additional evidence or a "reexamination." If the board finds a candidate physically disqualified, it shall conclude the examination and report the cause which has produced the disqualification.

(c) *Inquiry into moral character.* The board will inquire into the moral character of the candidate. The candidate will be carefully questioned and he may be required to submit in writing such information as the board may desire. The board is also authorized to seek verification of the candidate's statements or additional information from reliable sources. The candidate will be informed of any unfavorable statements of fact relative to his moral character and will be given an opportunity to refute or explain these statements.

(d) *Determination of general qualifications.* The board will determine whether or not the general qualifications of the candidate indicate suitability for the military service. To this end the board will carefully consider his general education, personality, appearance, and bearing, and his business, professional, and military experience. It will also take into consideration the efficiency of any military unit which may have been under his command. In determining sufficiency of education the board should bear in mind the duties and responsibilities that will devolve

upon the candidate. Should any doubt exist as to the sufficiency of the candidate's education, he will be examined in such subjects as the board deems necessary. This examination will be conducted in the manner prescribed for the professional examination and the result will be incorporated in the report of that examination.

(e) *Professional examination—(1) General.* The professional examination will consist of two parts: a written examination to determine the candidate's military knowledge qualifications; and a practical test, conducted either with or without troops, to determine his ability qualifications. The examination will be sufficiently comprehensive to determine the candidate's professional qualifications but it will not involve feats of memory requiring the reproduction of statistics, data, or kindred matter ordinarily found in reference works.

(2) *Scope.* In determining the subjects under professional qualifications in which a candidate (except a general officer) is to be examined and the scope of the examination in each subject, the board will be governed by the following Army Regulations which set forth the minimum qualifications for appointment and promotion:

AR 140-22, Adjutant General's Department.

AR 140-23, Air Corps.

AR 140-24, Cavalry.

AR 140-25, Chaplains.

AR 140-26, Chemical Warfare Service.

AR 140-27, Coast Artillery Corps.

AR 140-28, Corps of Engineers.

AR 140-29, Field Artillery.

AR 140-30, Finance Department.

AR 140-31, Infantry.

AR 140-32, Judge Advocate General's Department.

AR 140-33, Medical Department.

AR 140-36, Ordnance Department.

AR 140-37, Quartermaster Corps.

AR 140-38, Signal Corps.

(3) *Initial appointment.* The professional examination of a candidate for initial appointment will include not only the tests specified for the grade and arm or service in which recognition is sought, but will also include (unless waived in accordance with these regulations) all tests required for appointment or promotion to all lower grades in the particular arm or service.

(f) *Method of conducting the professional examination—(1) General.* The written tests prescribed under "military knowledge qualifications" will be conducted by one or more members of the examining board as designated by the president of the board. The ability tests will be conducted by the board as a whole.

(2) *Military knowledge tests—(1) Use of texts.* Since the military knowledge tests are based on the application of

principles and not on memorized portions of texts, candidates will be permitted to use any textbooks or references they may desire during the course of any test, except when such use is manifestly inappropriate.

(ii) *Certificate of candidate.* Each candidate is required to certify in writing that he has received no unauthorized assistance during the examination.

(3) *Ability tests—(i) Command of troops.* Whenever practicable, the ability of the candidate to perform the practical duties of the grade sought should be determined by giving him an opportunity to command the appropriate unit in suitable drill and tactical exercises. Regular Army units at military posts and stations, units of the National Guard and, with the consent of the proper authorities, units of the Reserve Officers' Training Corps and Citizens' Military Training Camps may be used for these tests.

(ii) *Terrain exercises.* When troops are not available appropriate terrain exercises, supplemented by oral examination, may be substituted.

(iii) *Alternate methods.* If it be impracticable to conduct the required ability tests by the methods outlined above, the candidate may be tested through the medium of map maneuvers, map problems, or such other exercises as the board may desire.

(iv) *Noncommand tests.* If the candidate is an applicant for service other than with troops, he should be given an opportunity to demonstrate his practical knowledge by the performance of duties incident to the commission for which he is a candidate.

(g) *Professional examination for general officers—(1) General.* The professional examination for candidates for the grade of general officer will consist of two parts, a written examination and an ability test. The examining board will prepare and mark the examination. The corps area commander will furnish such assistance as may be desired in the preparation of the examination. The result of the examination will be indicated in the record of proceedings as "satisfactory" or "unsatisfactory."

(2) *Written examination.* The written examination will consist of two map problems. The first will include requirements calling for a tactical decision and the troop leading of units appropriate to the grade sought; the second will be designed to test the candidate's knowledge of the principles of combat intelligence, communications, supply, evacuation, and administration.

(3) *Ability test—(i) How conducted.* The ability test will be conducted by actual command of the necessary troops, or through the medium of terrain exercises, command post exercises, terrain walks and rides, or by a combination of these methods, depending upon the facilities available. This test will be oral except for such messages, orders, train-

ing programs, reports, and requisitions as are ordinarily prepared by the commanders in question.

(ii) *Scope.* The candidate will demonstrate to the satisfaction of the board his ability to command the appropriate unit in the field, to direct the collection and dissemination of military intelligence for the unit, and to plan and order the operations of the unit.

(h) *Certificate of eligibility.* A certificate of eligibility (NGB Form No. 89a) is a written statement by the Chief of the National Guard Bureau that the individual named therein has satisfactorily completed the tests and met the qualifications prescribed for a particular grade in a particular arm or service and is therefore qualified for appointment in that grade and arm or service. If appointment or promotion to the office for which an applicant is certified as eligible is made within 2 years from the date shown on this certificate, Federal recognition will be extended without further examination other than physical.

(i) *Reexamination in case of failure.* A candidate who fails to pass the prescribed examination may be authorized by the State adjutant general to take another examination. In each case of reexamination, the candidate must appear in person before the board.

(j) *Notification of result of examination.* When the proceedings of an examining board have been approved, the Chief of the National Guard Bureau will notify the State adjutant general of the result of the examination. If the candidate is successful the notification will be given on NGB Form No. 3a which extends Federal recognition in the grade and arm or service for which the candidate has qualified, or, in the event there is no vacancy, on NGB Form No. 89a (Certificate of Eligibility). If the candidate fails to pass the examination, the State adjutant general will be informed of that fact by letter.* (NGR 20, July 8, 1938)

Sec. 1.04 *Waivers*—(a) *Waivers by the Chief of the National Guard Bureau*—(1) *General.* Upon request of a candidate and approval by the State adjutant general, the Chief of the National Guard Bureau may grant the waivers set forth below. In each case the request for waiver will state the special qualifications of the candidate and the specific reasons why the waiver should be granted. All such waivers must be obtained prior to the appearance of the candidate before the examining board.

(2) *Waiver of age limitations.* The Chief of the National Guard Bureau will not waive the age in grade requirements prescribed in 1.02 (d) (3) except for the gravest reasons. As prerequisites to consideration, it must be clearly shown that the request is based on the welfare of the National Guard rather than on that of the individual, and that no other person having the required qualifications is available.

(3) *Waiver of professional examination (except for Air Corps personnel).* The tests listed under professional qualifications may be modified or waived for not to exceed 1 year in the case of a candidate for initial appointment as second lieutenant, first lieutenant, or captain, who has had limited military experience or none at all, and where satisfactory evidence is presented that the candidate possesses adaptability for the military service. After this waiver has been granted, the candidate will be recognized upon satisfactory completion of the examination into his moral, physical, and educational qualifications. Within the time limit specified by the waiver, but in no case more than 1 year from the effective date of Federal recognition, the candidate's professional qualifications will be determined as prescribed in 1.03 (e) and (f). Unless this examination is completed successfully prior to the expiration of the period of waiver and a report of the result is received in the National Guard Bureau, Federal recognition will be withdrawn.

(4) *Waiver of professional examination for Air Corps personnel.* Candidates for recognition as Air Corps transportation officers may be granted a 1-year waiver of professional examination under the conditions set forth in (3) above. All other candidates for recognition as Air Corps officers are required to qualify for one of the authorized ratings before Federal recognition will be extended. If, however, the candidate has been selected to attend the Air Corps Training Center for pilot training and is otherwise qualified, the professional examination may be waived and Federal recognition extended during the period of training.

(5) *Waiver of technical tests upon transfer.* When an officer is transferred to a different arm or service, the examination in those technical subjects not common to the two arms or services may be waived for not more than 1 year.

(b) *Waivers by examining boards.* An examining board is authorized to grant the following waivers under the conditions set forth:

(1) *For candidates for the grade of general officer*—(i) *For brigadier general.* The professional tests prescribed for the grade of brigadier general may be waived if the candidate is a colonel or lieutenant colonel of the line of the Regular Army, or has had, immediately preceding the examination, 5 years' service as a colonel of the National Guard and a total of at least 20 years' commissioned service.

(ii) *For major general.* The professional tests prescribed for the grade of major general may be waived if the candidate is a colonel of the line of the Regular Army, or has had, immediately preceding the examination, 3 years' service as a brigadier general and a total of at least 20 years' commissioned service.

(2) *For other candidates*—(i) *Upon evidence of commission.* If the candi-

date produces evidence that he has been Federally recognized as an officer of the National Guard or that he has held a commission in the Regular Army, the Marine Corps, or the Officers' Reserve Corps or holds a valid certificate of capacity for commission in the Officers' Reserve Corps, the examining board may waive the professional tests prescribed for the grade and arm or service in which the candidate served. A warrant officer or enlisted man of the National Guard who is also an officer of the National Guard of the United States may be appointed an officer of the National Guard in the same grade and arm or service without further examination other than physical.

(ii) *Upon evidence of graduation from general and special service schools.* The examining board may accept evidence of satisfactory completion of appropriate courses of instruction for National Guard officers at general and special service schools in lieu of any or all of the service tests prescribed under proficiency qualifications.

(iii) *Upon presentation of certificate of proficiency.* If a candidate for commission as second lieutenant has obtained, by completion of a special course for noncommissioned officers of the National Guard at an appropriate service school, a certificate of proficiency in any subject prescribed under professional qualifications, the board may accept this certificate in lieu of examination in the subject covered.

(iv) *Upon evidence of graduation from the Senior Division, Reserve Officers' Training Corps.* If a candidate for commission as a second lieutenant has graduated from the Senior Division of the Reserve Officers' Training Corps within 3 years prior to the date of examination, and the arm or service in which he seeks recognition is the same as that of the unit from which he graduated, the board may accept evidence of this fact in lieu of any professional examination.

(v) *Upon evidence of satisfactory completion of extension courses.* If a candidate for original appointment has satisfactorily completed one or more extension courses within 3 years prior to date of examination, the board, upon presentation of evidence of this fact, may waive the examination in those subjects listed under military knowledge qualifications which have been covered by the courses completed.

If a candidate for promotion to any grade, except that of general officer, has satisfactorily completed the appropriate extension courses, the board may waive the examination in those subjects listed under military knowledge qualifications which have been covered by the courses completed. This waiver will be granted only to those officers whose service has been continuous since the completion of the courses in question.

(vi) *Upon evidence of graduation from service schools.* If an examining board finds

that a candidate's record of service shows adequate evidence of the necessary ability qualifications, the board may waive the ability tests.

(vii) *Upon evidence of graduation from high school or higher educational institution.* When a candidate produces satisfactory evidence of graduation from a standard high school or from an equivalent or higher institution of learning, the board may accept this in lieu of any tests designed to determine the candidate's general education.* [NGR 20, July 8, 1938]

Sec. 1.05 *Separation from the service—(a) Authority.* The discharge of National Guard officers is a function of the State.

(b) *Causes.* The commission of a National Guard officer is terminated by reason of—

(1) Death.

(2) Attainment of the age of 64 years.

(3) *Physical disqualification.* Whenever the physical fitness of a National Guard officer is in question, the State authorities may order such officer to appear before a board of three medical officers to determine his fitness for further service.

(4) *Acceptance by proper authority of resignation.* An officer who desires to resign will submit his resignation to the State adjutant general through channels. The action taken by the authorities of a State on the resignation of an officer of the National Guard of that State will be final. Unless accepted by the State authorities, a resignation in itself has no effect.

(5) Absence without leave for three months.

(6) Dismissal pursuant to sentence by a general court martial.

(7) Other provisions of State laws.* [NGR 20, July 8, 1938]

Sec. 1.06 *Officers of the National Guard of the United States—(a) Eligibility for appointment.* Every Federally recognized officer of the National Guard is eligible for appointment in the National Guard of the United States in the grade and arm or service corresponding to that in which he is Federally recognized, and upon application may be so appointed.

(b) *Application for appointment.* Applications for appointment (NGB Form No. 62) will be forwarded in triplicate through channels to The Adjutant General of the Army. These channels will include the appropriate National Guard commanders, the State adjutant general, the corps area commander, and the Chief of the National Guard Bureau.

(c) *Authorized grades.* Authorized grades in which appointments may be made are major general and brigadier general of the line, brigadier general of The Adjutant General's Department, and second lieutenant to colonel, inclusive, in all sections except—

(1) Chaplains—First lieutenant to lieutenant colonel, inclusive.

(2) Medical Corps—First lieutenant to colonel, inclusive.

(3) Dental Corps—first lieutenant to major, inclusive.

(4) Veterinary Corps—first lieutenant to major, inclusive.

(5) Medical Administrative Corps—second lieutenant to captain, inclusive.

(6) Judge Advocate General's Department—captain to colonel, inclusive.

(d) *Promotion.* In time of peace, officers of the National Guard of the United States will not be promoted in that status. If, however, they are promoted as National Guard officers and so recognized, they may, upon application, be tendered new appointments in the National Guard of the United States in their increased National Guard grades.

(e) *Active duty.* In time of peace, officers of the National Guard of the United States will not be ordered to active duty, as prescribed in sections 5 and 81 of the National Defense Act, except by authority of the War Department, and then only with the consent of the officers and the State authorities concerned.

(f) *Duration of appointment.* Officers of the National Guard of the United States are appointed for the period during which they are Federally recognized in the same grade and arm or service in the National Guard. An appointment in force at the outbreak of war will continue in force until 6 months after the termination of the war. However, any officer of the National Guard of the United States will be relieved from active Federal service within 6 months after the termination of a war if he makes application for such relief.

(g) *Separations.* An appointment in the National Guard of the United States will terminate—

(1) At any time at the discretion of the President.

(2) Upon termination or withdrawal of Federal recognition. (See 1.02 (e) and (f).)* [NGR 20, July 8, 1938]

E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 38-3825; Filed, December 20, 1938; 9:53 a. m.]

TITLE 45—PUBLIC WELFARE

CIVILIAN CONSERVATION CORPS

PART 3—REGULATIONS RELATIVE TO ENROLLMENT, DISCHARGE, HOSPITALIZATION, DEATH AND BURIAL OF ENROLLEES OF THE CIVILIAN CONSERVATION CORPS

Section 3.21 is amended by changing paragraph (a) (4) and adding paragraph (f) as follows:

Sec. 3.21 *Medical Attendance—(a) Discharge for physical or mental disability.*

(4) Upon the discharge from the Civilian Conservation Corps of any enrollee or upon the discharge of any individual employed as a supervisor in connection with the work to be performed who is suffering from a reportable communicable disease, his name, prospective address, and the disease from which he is suffering will be reported to the board of health of the State in which he contemplates making his home. These instructions include the reporting of venereal disease as prescribed in 3.21 (f).

(f) *Disposition of venereal patients—*

(1) *Transfer to hospital.* All members of the Civilian Conservation Corps developing venereal disease will be transferred promptly to a hospital for isolation and treatment and whenever practicable to a Government-owned institution. The transfer of a venereal case for treatment from a camp to a hospital in another State or district in a Government ambulance or other than common carrier is authorized.

(2) *Syphilis.* (i) As soon as the diagnosis of syphilis is confirmed in hospital, notification, giving approximate date of prospective discharge, will be sent the proper State health officer that the enrollee, whose prospective address in that State will be given, will be discharged upon the completion of the anti-syphilitic treatment required to heal all of the early lesions of the disease. Such treatment will consist of a minimum of six doses of an approved arsenical and four doses of bismuth administered over a period of approximately six weeks.

(ii) The State health officer will be requested to acknowledge receipt of the communication. If he fails to reply or states that there are no facilities and that none can be made available for the treatment of the enrollee after discharge, the corps area commander will be so notified by the camp commander. This report will be forwarded by the corps area commander direct to The Surgeon General of the Army for transmission by him to the Surgeon General, United States Public Health Service, for his information and such assistance as he may be able to render.

(iii) When satisfactory arrangements for treatment of the enrollee after discharge are made, he will be discharged from the Civilian Conservation Corps with notification to proper authorities as provided in (4) below. If arrangements for treatment of the enrollee by the local health officer after discharge cannot be made, the following treatment will be carried out:

The enrollee will be continued in hospital until ten doses of the arsenical, including the six doses prescribed in (1) above, have been administered. He will then be returned to camp where the camp surgeon will administer weekly intra-muscular doses of bismuth (0.2 g. of bismuth subsalicylate in oil) for ten

weeks. During this period arrangements will be perfected for the administration of the next ten doses of an arsenical. The corps area surgeon will arrange when practicable to have the arsenical administered at a Government hospital or State dispensary in the vicinity of the camp, the enrollee being sent from the camp to the place of treatment and returned on the same day, or, if in his opinion the camp facilities, supplies, and personnel warrant it, neo-arsphenamine may be administered in camp dispensaries by the camp surgeon. Upon the completion of the administration of the second course of the ten doses of the arsenical, the enrollee will receive in camp ten weekly doses of bismuth. The enrollee will then be discharged from the Civilian Conservation Corps.

(iv) If reenrollment is necessary during the course of treatment outlined, the enrollee will be reenrolled if he consents, provided he has not reached his 24th birthday or has not had two years' service, unless he be excepted under the provisions of 3.04 (c).

(3) *Other venereal patients.* Enrollees infected with other venereal diseases will receive thorough and careful treatment in hospital to which they have been transferred as outlined in (1) above. When in the opinion of the responsible physician danger of transmission or infection of others is believed to have been passed, the enrollee will be discharged.

(4) *Notification on discharge.* When an enrollee who has received treatment during enrollment for any venereal disease is discharged, the camp commander will have prepared in triplicate a concise clinical summary of the case, setting forth the name of the enrollee, prospective address, date of discharge, clinical diagnosis, time of infection, treatment received, results obtained, any complications that may have occurred, and further treatment will be advised as indicated. The necessity for continued treatment will be explained carefully to syphilitics. One copy of the summary will be furnished to the enrollee for his guidance, one copy will be forwarded to the health officer of the State of prospective residence, and one copy will be filed with the medical records of the enrollee at corps area headquarters.

(5) *Treatment record.* A record of treatment will be kept on W. D., M. D. Form No. 52a (Index Record of Patients (Card)) of every syphilitic enrollee. When a diagnosis of syphilis is made for a Civilian Conservation Corps enrollee, the date, place, and method of diagnosis will be recorded. The date, place, and amount of each dose of a therapeutic drug administered will be noted on the card and initialed by the responsible officer. If the enrollee is transferred, this treatment record will be mailed to the hospital or camp to which he is sent. Upon completion of the treatment or the discharge of the enrollee, a true copy of the treatment record will be prepared

and forwarded to the office of The Surgeon General. (50 Stat. 319) (C. C. C. Regs., W. D., Dec. 1, 1937; C 19, Dec. 15, 1938)

[SEAL]

E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 38-3824; Filed, December 20, 1938;
9:53 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

QUARTERLY REPORTS OF REVENUE HIGHWAY TRAFFIC OF CLASS I STEAM RAILWAYS

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 10th day of December, A. D. 1938.

The subject of Quarterly Reports of Revenue Highway Traffic of Class I Steam Railways being under consideration:

It is ordered, That each steam railway of Class I (except switching and terminal companies) shall make for each quarter of the calendar year 1939, and thereafter until further order, a report showing revenue tons carried, revenue tons carried one mile, revenue passengers carried, and revenue passengers carried one mile, based on traffic handled in (a) respondent's highway vehicles, and (b) highway vehicles of other carriers for respondent, as indicated in the form of report attached to and made a part of this order.

It is further ordered, That said quarterly reports shall be filed in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., within 50 days after the end of the quarter for which the report is rendered.

By the Commission, division 4.

[SEAL]

W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3842; Filed, December 20, 1938;
12:46 p. m.]

FREIGHT COMMODITY STATISTICS

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 14th day of December, A. D. 1938.

The subject of freight commodity statistics being under consideration:

It is ordered, That the Commission's order of November 22, 1927, requiring carriers by steam railway, other than switching and terminal companies, to submit reports of freight commodity statistics, be amended as follows: Begin-

¹ Filed as a part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

ning with the first quarter of the year 1939, and thereafter until further order, each Class I steam railway, other than switching and terminal companies, shall segregate the freight traffic handled by forwarders in their quarterly reports of Freight Commodity Statistics and shall show for this class of traffic as a whole, the same information as to carloads, tons, and revenue that is required for each of the other commodity classes, said information to appear in a footnote against Class 701; Provided, that to avoid undue clerical labor, said footnote may be restricted to the principal forwarding companies or their subsidiaries originating in the aggregate not less than approximately 80 percent of such traffic handled on respondent's line. By the Commission, division 4.

[SEAL]

W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3841; Filed, December 20, 1938;
12:46 p. m.]

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[General Docket No. 15]

ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

NOTICE OF POSTPONEMENT OF REOPENED HEARING, DETERMINATIONS OF WEIGHTED AVERAGE OF TOTAL COSTS OF TONNAGE PRODUCED WITHIN MINIMUM PRICE AREAS NOS. 4, 6, 7, 9 AND 10 FROM THE 28TH DAY OF DECEMBER, 1938, TO A DATE TO BE LATER DESIGNATED BY THE COMMISSION

Notice is hereby given that the hearing in the matter of the determinations of the weighted average of the total costs per net ton of the tonnage produced within Minimum Price Areas Nos. 4, 6, 7, 9 and 10, as previously set by Commission's Orders herein entered on the 6th day of December, 1938, and on the 9th day of December, 1938,¹ to be held in the hearing room of the Commission in the Albany Hotel, Denver, Colorado, commencing at the hour of 10:00 o'clock A. M. on the 28th day of December, 1938 is hereby postponed from said date of December 28, 1938 to a date and place to be later designated by further order of the Commission.

The Secretary of the Commission is hereby directed to cause a copy of this notice to be published forthwith in the FEDERAL REGISTER and in two consecutive issues of a newspaper or newspapers of general circulation in each of Districts Nos. 14, 16, 17, 18, 19, 20, 22 and 23, and shall cause copies hereof to be mailed to each code member, to the Consumers' Counsel, to the Secretary of each District Board, and to all parties who have entered appearances in this proceeding, and shall cause copies hereof to be

¹ 3 F. R. 2886, 3000 DI.

made available for inspection by interested parties at each of the Statistical Bureaus of the Commission.

By order of the Commission.

Dated this 19th day of December, 1938.

[SEAL] F. WITCHER McCULLOUGH,
Secretary.

[F. R. Doc. 38-3835; Filed December 20, 1938;
12:15 p. m.]

DEPARTMENT OF AGRICULTURE.

Sugar Division.

DETERMINATION OF WAGE RATES FOR PERSONS EMPLOYED IN PRODUCTION, CULTIVATION OR HARVESTING OF 1939 CROP OF SUGAR BEETS

NOTICE OF HEARINGS AND DESIGNATION OF PRESIDING OFFICERS

Pursuant to the authority contained in Sections 301 (b) and (d) and 511 of the Sugar Act of 1937 (Public, No. 414, 75th Congress).

Notice is hereby given that public hearings for districts in which factories are located will be held as follows:

For the lower peninsula of Michigan, Ohio, and Indiana, at Detroit, Michigan, in Room 715 Federal Building, on January 9, 1939, at 9:30 a. m.

For Wisconsin, Iowa, Minnesota, and the upper peninsula of Michigan, at Minneapolis, Minnesota, in the Andrews Hotel, on January 12, 1939, at 9:30 a. m.

For Montana and northern Wyoming, at Billings, Montana, in the Commercial Club, on January 16, 1939, at 9:30 a. m.

For Washington, at Seattle, Washington, in the New Washington Hotel, on January 19, 1939, at 9:30 a. m.

For Oregon, Utah, and Idaho, at Salt Lake City, Utah, in the Newhouse Hotel, on January 23, 1939, at 9:30 a. m.

For Colorado and Kansas, at Denver, Colorado, in the Albany Hotel, on January 26, 1939, at 9:30 a. m.

For Nebraska, southern Wyoming, and South Dakota, at Scottsbluff, Nebraska, in the Bluff Theatre Building, on January 30, 1939, at 9:30 a. m.

The purpose of such hearings is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining, (1) pursuant to the provisions of section 301 (b) of the said act, fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of the 1939 crop of sugar beets on farms with respect to which applications for payments under the act are made, and, (2) pursuant to the provisions of section 301 (d) of the said act, fair and reasonable prices for the 1939 crop of sugar beets to be paid, under either purchase or toll agreements, by processors who as producers apply for payments under the said act; and to receive evidence likely to be of assistance to the Secretary of Agriculture in making recommendations, pursuant to the provisions of section 511 of the said act, with respect to the terms and conditions

of contracts between producers and processors of sugar beets.

Any of such hearings, after being called to order at the time and place mentioned above, may for convenience be adjourned to such other place in the same city as the presiding officer may designate, and may be continued from day to day within the discretion of the presiding officer.

Robert B. Tyler, Charles M. Nicholson, Otis E. Mulliken, and Bernhard H. Benidt are hereby designated as presiding officers to conduct, either jointly or severally, the foregoing hearings.

Done at Washington, D. C., this 20th day of December 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3839; Filed, December 20, 1938;
12:21 p. m.]

DEPARTMENT OF LABOR.

Division of Public Contracts.

IN THE MATTER OF THE PROPOSED DISCONTINUANCE OF THE TOLERANCE FOR LEARNERS, HANDICAPPED OR SUPERANNUATED WORKERS IN THE WORK GLOVE INDUSTRY

NOTICE OF OPPORTUNITY TO SHOW CAUSE

All parties who are interested in the continuance of the tolerance for learners, handicapped or superannuated workers in the above industry as provided for in the Secretary of Labor's decision of July 28, 1937,¹ In the Matter of the Prevailing Minimum Wage in the Work Glove Industry are hereby given until and including January 19, 1939 within which to file briefs with the Administrator of the Division of Public Contracts showing reasons of law or fact why the aforementioned decision of the Secretary should not be amended by the revocation of the tolerance for learners, handicapped or superannuated workers.

Dated this 19th day of December, 1938.

[SEAL] L. METCALFE WALLING,
Administrator.

[F. R. Doc. 38-3843; Filed, December 20, 1938;
12:54 p. m.]

IN THE MATTER OF THE PROPOSED DISCONTINUANCE OF THE TOLERANCE FOR LEARNERS, HANDICAPPED OR SUPERANNUATED WORKERS IN THE MEN'S RAINCOAT INDUSTRY

NOTICE OF OPPORTUNITY TO SHOW CAUSE

All parties who are interested in the continuance of the tolerance for learners, handicapped or superannuated workers in the above industry as provided for in the Secretary of Labor's decision of July 28, 1937,² In the Matter of the Pre-

vailing Minimum Wage in the Men's Raincoat Industry are hereby given until and including January 19, 1939, within which to file briefs with the Administrator of the Division of Public Contracts showing reasons of law or fact why the aforementioned decision of the Secretary should not be amended by the revocation of the tolerance for learners, handicapped or superannuated workers.

Dated this 19th day of December, 1938.

[SEAL] L. METCALFE WALLING,
Administrator.

[F. R. Doc. 38-3844; Filed, December 20, 1938;
12:54 p. m.]

IN THE MATTER OF THE PROPOSED DISCONTINUANCE OF THE TOLERANCE FOR LEARNERS, HANDICAPPED OR SUPERANNUATED WORKERS IN THE SEAMLESS HOSIERY INDUSTRY

NOTICE OF OPPORTUNITY TO SHOW CAUSE

All parties who are interested in the continuance of the tolerance for learners, handicapped or superannuated workers in the above industry as provided for in the Secretary of Labor's decision of July 28, 1937,¹ In the Matter of the Prevailing Minimum Wage in the Seamless Hosiery Industry are hereby given until and including January 19, 1939, within which to file briefs with the Administrator of the Division of Public Contracts showing reasons of law or fact why the aforementioned decision of the Secretary should not be amended by the revocation of the tolerance for learners, handicapped or superannuated workers.

Dated this 19th day of December, 1938.

[SEAL] L. METCALFE WALLING,
Administrator.

[F. R. Doc. 38-3845; Filed, December 20, 1938;
12:54 p. m.]

Wage and Hour Division.

[Administrative Order No. 6]

AMENDING DEFINITION OF "TEXTILE INDUSTRY" AS CONTAINED IN ADMINISTRATIVE ORDER NO. 1 APPOINTING INDUSTRY COMMITTEE NO. 1

By virtue of and pursuant to the authority vested in me by the "Fair Labor Standards Act of 1938",² and pursuant to recommendations submitted to me by Industry Committee No. 1, I, Elmer F. Andrews, Administrator of the Wage and Hour Division, Department of Labor, do hereby amend the definition of the term "textile industry" as contained in paragraph 2 of Administrative Order No. 1, dated September 13, 1938,³ to read as follows:

As used in this order, the term "textile industry" means

(a) The manufacturing or processing of yarn or thread and all processes pre-

¹ 2 F. R. 1338 (1596 DI).

² 52 Stat. 1060.

³ 3 F. R. 2313 DI.

paratory thereto, and the manufacturing, bleaching, dyeing, printing and other finishing of woven fabrics (other than carpets and rugs) from cotton, silk, flax, jute or any synthetic fibre, or from mixtures of these fibres; except the chemical manufacturing of synthetic fibre and such related processing of yarn as is conducted in establishments manufacturing synthetic fibre;

(b) The manufacturing of batting, wadding or filling and the processing of waste from the fibres enumerated in clause (a);

(c) The manufacturing, bleaching, dyeing, or other finishing of pile fabrics (except carpets and rugs) from any fibre or yarn;

(d) The processing of any textile fabric, included in this definition of this industry, into any of the following products: bags; bandages and surgical gauze; bath mats and related articles; bedspreads; blankets; diapers; dish-cloths, scrubbing cloths and wash-cloths; sheets and pillow cases; table-cloths, lunch-cloths and napkins; towels; and window-curtains;

(e) The manufacturing or finishing of braid, net or lace from any fibre or yarn;

(f) The manufacturing of cordage, rope or twine from any fibre.

Signed at Washington, D. C., this 19th day of December 1938.

ELMER F. ANDREWS,
Administrator.

[F. R. Doc. 38-3827; Filed, December 20, 1938;
10:58 a. m.]

[Administrative Order No. 7]

APPOINTMENT OF INDUSTRY COMMITTEE
No. 2

1. By virtue of and pursuant to the authority vested in me by the Fair Labor Standards Act of 1938,¹ I, Elmer F. Andrews, Administrator of the Wage and Hour Division, Department of Labor, do hereby appoint for the apparel industry (as such industry is defined in paragraph 2) an industry committee composed of the following representatives:

For the Public:

Louis E. Kirstein, Chairman, Boston, Mass.;

Delos Walker, Vice Chairman, New York City, N. Y.;

Miss Charlotte Carr, Chicago, Ill.;

Jonathan Daniels, Raleigh, N. C.;

John P. Devaney, Minneapolis, Minn.;

Miss Marion Dickerman, New York City, N. Y.;

Harold English, Los Angeles, Calif.;

Herman Feldman, Hanover, N. H.;

Louis B. Hopkins, Crawfordsville, Ind.;

Neville Miller, Louisville, Ky.;

Mark McCloskey, New York City, N. Y.;

Harriss Newman, Wilmington, N. C.;

Arthur J. Patton, New York City, N. Y.;

Charles W. Pipkin, Baton Rouge, La.;

Charles Ray, Goodyear, Conn.;

Sumner H. Slichter, Boston, Mass.;

For the Employees:

Morris Bialis, Chicago, Ill.;

Hyman Blumberg, Baltimore, Md.;

Joseph Catalanotti, New York City, N. Y.;

David Dubinsky, New York City, N. Y.;

Harry Greenberg, New York City, N. Y.;

Sidney Hillman, New York City, N. Y.;

Julius Hochman, New York City, N. Y.;

Elizabeth M. Hogan, New York City, N. Y.;

Sam Levin, Chicago, Ill.;

Joseph P. McCurdy, Baltimore, Md.;

Isidore Nagler, New York City, N. Y.;

Meyer Perlstein, St. Louis, Mo.;

Jacob S. Potofsky, New York City, N. Y.;

Elias Reisberg, Harrisburg, Pa.;

Frank Rosenblum, Chicago, Ill.;

Nathan Sidd, Boston, Mass.;

For the Employers:

Frank Coll, Alpena, Mich.;

Oscar J. Groebl, San Francisco, Cal.;

W. C. Harris, Winder, Ga.;

S. L. Hoffman, New York City, N. Y.;

Samuel W. Levittles, Philadelphia, Pa.;

A. A. Lipshutz, Atlanta, Ga.;

Nathan Schwartz, New York City, N. Y.;

Jack Mintz, New York City, N. Y.;

A. W. Patterson, Denison, Tex.;

Alexander Printz, Cleveland, Ohio;

Raymond H. Reiss, Chicago, Ill.;

Victor Riesenfeld, New York City, N. Y.;

Herman Rosenblum, Louisville, Ky.;

Jesse Rosenfeld, New Orleans, La.;

Louis E. Rosensweig, New York City, N. Y.;

J. J. Wolkerstorfer, St. Paul, Minn.

Such representatives having been appointed with due regard to the geographical regions in which such industry is carried on.

2. As used in this order, the term "apparel industry" means:

The manufacture of all apparel, apparel furnishings and accessories made by the cutting, sewing, or embroidery processes, except: knitted outerwear, knitted underwear, hosiery, men's fur felt, wool felt, straw and silk hats, and bodies, ladies' and children's millinery, furs, and boots and shoes.

3. The industry committee herein created, in accordance with the provisions of the Fair Labor Standards Act of 1938 and rules and regulations promulgated thereunder,² shall investigate conditions in the apparel industry and recommend to the Administrator minimum wage rates for all employees thereof who within the meaning of said act are "engaged in commerce or in the production of goods for commerce", excepting em-

ployees exempted by virtue of the provisions of Section 13 (a) and employees coming under the provisions of Section 14.

Signed at Washington, D. C. this 19th day of December, 1938.

ELMER F. ANDREWS,
Administrator.

[F. R. Doc. 38-3828; Filed, December 20, 1938;
10:58 a. m.]

FEDERAL POWER COMMISSION.

[Docket No. IT-5536]

IN THE MATTER OF ORANGE AND ROCKLAND
ELECTRIC COMPANY OF NEW JERSEY, AND
ROCKLAND ELECTRIC CO.

NOTICE OF APPLICATION

DECEMBER 17, 1938.

Notice is hereby given that on December 16, 1938, an application was filed with the Federal Power Commission, pursuant to Section 203 of the Federal Power Act, by Orange and Rockland Electric Company of New Jersey, a corporation organized under the laws of the State of New Jersey and doing business in said State with its principal office at Monroe, New York, and the Rockland Electric Company, a corporation organized under the laws of the State of New Jersey and doing business in the States of New York and New Jersey with its principal office at Nyack, New York, seeking an order authorizing and approving the disposition by sale of all the facilities (excepting cash on hand and in bank and such property and assets as are situated outside of its franchise territory) of the first named company to the last named company. The facilities proposed to be disposed of are described in said application as follows: Distribution lines commencing at the following points on the New York-New Jersey State line: (1) West shore of Greenwood Lake, north-east of Lakeside; (2) East shore of Greenwood Lake, south of Sterling Forest; (3) About one mile east of Hope Mine; (4) About one mile west of Shepard Pond. From these points these lines extend generally through West Milford Township and Borough of Ringwood, Passaic County, New Jersey, which constitutes the entire franchise territory of the Orange and Rockland Electric Company of New Jersey. In addition to the aforementioned distribution lines, it is proposed to sell other fixed capital assets consisting of the franchises in West Milford Township and Borough of Ringwood, land and rights of way, services, transformers and devices, meters, and general equipment. The proposed disposition of facilities of Orange and Rockland Electric Company of New Jersey includes all of its operating facilities except a small amount of property in Vernon Township, Sussex County, New Jersey, all as more fully

¹ 52 Stat. 1060.

² 3 F. R. 2744 DI.

appears in the application on file with the Commission.

Any person desiring to be heard, or to make any protest with reference to said application should, on or before the 3rd day of January 1939, file with the Federal Power Commission a petition or protest in accordance with the Commission's Rules of Practice and Regulations.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-3833; Filed, December 20, 1938;
12:09 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of December 1938.

IN THE MATTER OF RALPH C. KENT, DOING BUSINESS AS RALPH C. KENT & CO., 7 SOUTH DEARBORN STREET, CHICAGO, ILLINOIS

MEMORANDUM OPINION AND ORDER REVOKING REGISTRATION

This is a proceeding pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, to determine whether the registration of Ralph C. Kent, doing business as Ralph C. Kent & Co., as a broker and dealer, effective January 1, 1936, should be revoked or suspended.

At a hearing held, pursuant to the Commission's order on September 26, 1938,¹ and October 10, 1938, at Chicago, Illinois, registrant failed to appear personally or by counsel, although notice of the hearing was received personally by him. The Trial Examiner filed an advisory report in which he found that the registrant had been convicted on or about April 20, 1937, of a felony arising out of the conduct of the business of a broker and dealer in securities, and that the registrant had violated Rule X-15B-2 in failing to inform the Com-

mission of a change in his business address, of the conviction referred to above, and of the cancellation, in April 1937, of his license to sell securities in the State of Illinois. On an independent review of the record we adopt the Examiner's findings, and find further that it is not in the public interest to continue to permit Kent the use of the mails and instruments of interstate commerce in securities transactions on over-the-counter markets.

It is therefore ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of Ralph C. Kent, doing business as Ralph C. Kent & Co., be and the same is hereby revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3830; Filed, December 20, 1938;
11:04 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 17th day of December, A. D. 1938.

[File No. 31-202]

IN THE MATTER OF KENTUCKY UTILITIES COMPANY

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION UNDER PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 PURSUANT TO REQUEST OF APPLICANT

Upon the request of the applicant, the Commission consents to the withdrawal of the above-captioned application, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3831; Filed, December 20, 1938;
11:04 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its

office in the City of Washington, D. C. on the 17th day of December, A. D. 1938.

[File No. 31-428]

IN THE MATTER OF COMPANIA MEXICANA DE GAS, S. A.

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION UNDER PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 PURSUANT TO REQUEST OF APPLICANT

Upon the request of the applicant, the Commission consents to the withdrawal of the above-captioned application, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3832; Filed, December 20, 1938;
11:04 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of December, A. D. 1938.

[File No. 32-122]

IN THE MATTER OF NEW YORK STATE ELECTRIC AND GAS CORPORATION

ORDER OF WITHDRAWAL OF APPLICATION

New York State Electric and Gas Corporation having filed with this Commission an application pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935, concerning the issue and sale of First Mortgage Bonds, 4% Series, due 1965, in the principal amount of \$14,000,000;

The Commission having due regard to the public interest and the interest of investors and consumers, upon the request of the applicant consents to withdrawal of the application contained in Commission's File No. 32-122, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3829; Filed, December 20, 1938;
11:04 a. m.]

¹ 3 F. R. 2165 DI.

